



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE  
OFFICE OF GENERAL COUNSEL

July 26, 2022

**In Reply Refer to:**

EPA File No: 03DRr-22-R5

Liesl Eichler Clark, Director  
The Michigan Department of Environment,  
Great Lakes and Energy  
525 West Allegan Street  
Post Office Box 30471  
Lansing, MI 48909-7973  
ClarkL20@michigan.gov

**Re: Receipt of Correspondence Alleging Retaliation**

Dear Director Clark:

This letter is to notify you that the Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) received correspondence on April 4, 2022, related to EPA Complaint No. 03DRr-22-R5, which alleges that the Michigan Department of Energy, Great Lakes, and the Environment (EGLE) retaliated against the Complainant on the basis of race and disability by allegedly preventing the Complainant from filing a discrimination complaint regarding the approval of Permit to Install (PTI) No. APP-2021-0019 for the Ajax Asphalt Plant in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000(d) *et seq.* (Title VI), Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 (Section 504), and EPA's nondiscrimination regulation at 40 C.F.R. Part 7. On March 11, 2022, ECRCO accepted for investigation, a complaint that alleges EGLE discriminated on the basis of race and disability in its air permit program and public participation process.<sup>1</sup>

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. See 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. See 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory or retaliatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory or retaliatory act based on race, color, national origin,

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<sup>1</sup> EPA Complaint No. 03DRr-22-R5, is pending in the Informal Resolution Agreement process as of the date of this letter. This original complaint also included a separate allegation of retaliation; however, the Complainant subsequently withdrew that allegation, and it was not accepted for investigation.

sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory or retaliatory act. See 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. See 40 C.F.R. § 7.15.

After careful consideration, including several communications between ECRCO and the Complainant related to this correspondence, ECRCO has determined it will not investigate the alleged retaliation claim. ECRCO has determined that the allegation lacks sufficient detail for ECRCO to infer that a retaliatory act may have occurred or is occurring.<sup>2</sup>

ECRCO will continue to engage in Informal Resolution Agreement negotiations with MI EGLE regarding EPA Complaint No. 03DRr-22-R5, alleging violations of Title VI, and Section 504, and EPA's nondiscrimination regulation, at 40 C.F.R. Part 7.

If you have any questions, please contact me or the ECRCO Case Manager on the matter, Jack Pantziris, at pantziris.jack@epa.gov, or Anhthu Hoang, Acting Deputy Director at hoang.anhthu@epa.gov.

Sincerely,



Lilian S. Dorka, Director  
External Civil Rights Compliance Office  
Office of General Counsel

cc: Ariadne Goerke  
Deputy Associate General Counsel  
Civil Rights & Finance Law Office

Cheryl Newton  
Deputy Regional Administrator  
Deputy Civil Rights Official  
U.S. EPA Region 5

Robert Kaplan  
Regional Counsel  
U.S. EPA Region 5

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<sup>2</sup> See U.S. EPA, ECRCO Case Resolution Manual, Section 1.8, at 10-11. (Available at: [https://www.epa.gov/sites/default/files/2021-01/documents/2021.1.5\\_final\\_case\\_resolution\\_manual\\_.pdf](https://www.epa.gov/sites/default/files/2021-01/documents/2021.1.5_final_case_resolution_manual_.pdf)).